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VIA ECFS

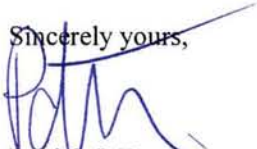
Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Re: WC Docket No. 06-125

Dear Ms. Dortch:

This will provide notice that on October 4, 2007, Frances McComb, Vice President, Regulatory Affairs, Cavalier Telephone, LLC, Stephen W. Crawford, Senior Vice President and General Counsel, Alpheus Communications, LP, Joshua M. Bobeck of this firm, and the undersigned met with Scott Bergmann, Office of Commissioner Jonathan S. Adelstein; Ian Dillner, Office of Chairman Kevin J. Martin; and Scott Deutchman, Office of Commissioner Michael J. Copps. We presented the views set forth in the attached document which was provided at the meetings.

Sincerely yours,



Patrick J. Donovan

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Inadequate Showing of Competition

- BOCs allege, but do not demonstrate, competition in any geographic market.
 - A demonstration of national level competition requires a showing of competition in every local market.
 - *Wireline Broadband Order* dealt with a different service - Internet access service - not common carrier transmission services.
 - *271 Broadband Forbearance Order* limited to markets already assessed in *TRO*.
 - BOCs did not comply with Wireline Bureau request to provide local market data.

BOCs Retain Market Power

- Broadband, IP enabled traffic does not eliminate last-mile bottleneck.
- Only a small percentage of buildings have CLEC fiber (DOJ, GAO, GeoResults).
- FCC retained dominant carrier regulation of Qwest in Omaha even though it found significant retail and enterprise market competition

Dominant Carrier Regulation Still Necessary to protect Competition and Consumers

- Competitors lack reasonably priced alternatives to BOC last mile facilities for provision of Ethernet services
- CLECs incur significant extra costs to provide Ethernet over TDM special access:
 - costly to add another layer of electronics
 - electronics are more expensive than native Ethernet gear
 - multiple TDM circuits needed to match Ethernet capacity
- OCn impairment determination: lack of impairment does not mean lack of market power, expectation that dark fiber would be available barriers to deployment not overcome.
- Impractical to construct OCn at every location.

BOCs May Offer Customized Services Without Forbearance

- Contract tariffs permit customized offerings.
- Dominant carrier regulation for retail services is optional -- AT&T uses non-regulated advanced services affiliate but key inputs it buys (special access) remain subject to dominant carrier regulation.
- *Verizon Fast Packet Order*: Verizon may offer broadband outside of price caps subject to pricing flexibility without a separate affiliate.

Recommendation

- Deny the Petitions for failure to demonstrate competition in any geographic or market segment.
- Consider addressing market failures and path towards deregulation in pending special access and dom/nondom proceedings.